

APPENDIX D

Governor's Task Force Recommendations

In 2001, Secretary of the Interior Gale Norton asked local officials for their ideas regarding federally mandated land use management plans for new national monuments. In response to this request, Montana Governor Judy Martz appointed a task force to develop recommendations for the Secretary of the Interior. The task force conducted three public meetings to gather public input and also solicited written comments. Approximately 1,700 letters were received. In August 2001, the Governor's Task Force provided nine recommendations for the Secretary's consideration (Montana 2001). These recommendations were considered during the development of this RMP/EIS. The recommendations are summarized below along with an explanation of how the recommendations were addressed in the RMP/EIS.

Recommendation: The Task Force recommends that the Antiquities Act be clarified so the Act is used in a less subjective manner, and is confined to the true intent of the Act.

The BLM does not have the authority to change (or clarify) the Antiquities Act. This recommendation is beyond the scope of the RMP/EIS.

Recommendation: The Task Force recommends that the BLM work to attain appropriations that will allow for the acquisition of conservation easements. Conservation easements should be between willing buyer/seller and the money shall not be used for the acquisition of private property.

In the Draft RMP/EIS, private land or easement acquisitions would only be considered with willing sellers. This has been clarified in the Proposed RMP/Final EIS. The BLM would coordinate with state agencies and county governments to improve public access to BLM land. Easements or fee acquisition opportunities would only be considered with willing landowners to enhance the values of the Monument and provide legal public access to or within the Monument, or additional public access to meet management objectives, including dispersed recreation use. Land and Water Conservation Funds may be used for land acquisitions (either fee or conservation easement) but only with willing landowners.

Recommendation: The water right reserved pursuant to the Presidential Proclamation is to be removed from Arrow Creek and the Judith River. The federal government shall respect the legal process and follow it at a state and local level.

The BLM does not have the authority to remove the reserved water rights from the Proclamation. The BLM is currently collecting hydrologic data from both the Judith River and Arrow Creek. The BLM needs to know the magnitude, timing, and frequency of flows necessary to support the outstanding water-dependent biological resources and cottonwood galleries that were the basis for the reserved water rights. Once this data collection is complete, the BLM will begin negotiations with the Reserved Water Rights Compact Commission to quantify its claimed reserved right. After June 30, 2009, the Reserved Water Rights Compact Commission no longer has authority to negotiate reserved water rights. The process of quantifying this reserved right then must be adjudicated through the state court system.

Montana law provides for the Montana Reserved Water Rights Compact Commission, a state-appointed body, to negotiate with the various federal agencies and tribal governments who claim reserved water rights. This process provides for public input throughout the negotiation process and requires that the Montana legislature, Governor of Montana and Secretary of the Interior approve any settlement proposal. The BLM has not requested a negotiation at this time and cannot reach a decision on the assertion of the federal reserved right without further information on base and flood flows along with public input.

Additional information and clarification is included in the Proposed RMP/Final EIS on the reserved water rights.

Recommendation: The Task Force acknowledges that grazing is an acceptable use on monument lands and is important to local economies. The Task Force recommends that grazing should be viewed as a compatible activity on monument lands.

Under the Proclamation, the "[l]aws, regulations, and policies followed by the Bureau of Land Management in issuing and administering grazing permits or leases on all lands under its jurisdiction shall continue to apply with regard to the lands in the monument."

The Proclamation and Monument designation did not mandate a need for an adjustment of forage allocated to livestock. All BLM land currently available and allocated for livestock grazing will continue in the Monument. A total of 116 allotments with about 38,000 animal unit months (AUMs) of forage are available for livestock grazing on an annual basis (Appendix N). Livestock grazing will continue to be managed through the Lewistown District (Lewistown and Malta Field

Offices) Standards for Rangeland Health and Guidelines for Livestock Grazing Management (BLM 1997). Standards for Rangeland Health apply to all public land administered by the BLM.

Additional information and clarification is included in the Proposed RMP/Final EIS under Livestock Grazing.

Recommendation: The Task Force recommends that the Secretary of Interior adjust the monument boundaries to include only the current Wild and Scenic River designation as their preferred recommendation to the Secretary and the President of the United States.

The BLM does not have the authority to change the Proclamation or adjust the boundary of the Monument. This recommendation is beyond the scope of the RMP/EIS.

Recommendation: If the Secretary is unable to incorporate the primary recommendation of the Task Force, then the second recommendation of the Task Force shall be to allow private property owners the ability to have their land drawn out of the boundary. The recommendation does not pertain to private property contained within the Wild and Scenic boundary designation as those lands are already included in the Wild and Scenic boundary. The recommendation allows for private property owners to choose to include their private property within the monument designation or to exclude their private property from the monument designation.

While the BLM does not have the authority to adjust the boundary of the Monument it is within BLM's discretion to exclude the boundary line from the maps that show the Monument. With the exception of Figure 1.1 in the Draft RMP/EIS and the map included with the Proclamation in Appendix A, the BLM did not include the Monument boundary on the other maps at the end of Chapters 2 and 3 and the larger foldout maps located in the back of the document. However, the maps did include the boundary for the Upper Missouri National Wild and Scenic River (UMNWSR).

Recommendation: The Task Force recommends that all rights of way, existing trails, roads and new applications for rights of way or ancillary facilities be processed and honored in the same fashion as prior to the designation of the monument.

In the Draft RMP/EIS, applications for rights-of-way will be considered pursuant to existing policies and practices, identified transportation and utility corridors, identified avoidance and exclusion areas, valid existing rights, and as necessary for adequate and reasonable

access to state or private land as well as access for utility or transportation services.

Applications for rights-of-way will also be considered for necessary and adequate access across BLM land to private and state minerals for exploration, development, and production (e.g., access roads and pipelines).

Additional information and clarification is included in the Proposed RMP/Final EIS under Lands and Realty.

Recommendation: The Task Force recognizes the importance of the multiple use concepts, and that multiple use of monument lands, including natural gas development is important to Montana's economy and value system. The only aspect of multiple uses that the Task Force agrees is not compatible with the monument designation and management is the development of oil.

As discussed in the Draft RMP/EIS and Proposed RMP/Final EIS, the BLM's vision is to manage the Monument in a manner that maintains and protects its biological, geological, visual and historic objects and preserves its remote and scenic character. The RMP will incorporate the Proclamation, multiple use and existing laws, while recognizing valid existing rights and authorizations, and providing diverse recreational opportunities. The BLM will manage these lands in a multiple use manner consistent with the Proclamation and all current law and policy.

The BLM's goal is to provide reasonable oil and gas exploration and development on existing leased land without diminishing the objects of the Monument. Leases issued for federal minerals are available for both natural gas and oil development. All oil and gas lease activities on these leases would be subject to existing laws (e.g., Clean Water Act, Endangered Species Act, National Historic Preservation Act, etc.). However, the BLM does not have the authority to exclude oil development on an oil and gas lease.

Recommendation: The Task Force recognizes that there is no one special place along the Missouri River. The entire area is special. However, the Wild and Scenic Corridor is the most special of the entire area.

As discussed in the Draft RMP/EIS and Proposed RMP/Final EIS, the Monument would be included in two special recreation management areas (SRMA): Upper Missouri River SRMA and Uplands SRMA (Map E). The Upper Missouri River SRMA includes BLM land from Fort Benton downstream to Arrow Creek and the entire UMNWSR. Specific management for the Upper Missouri River SRMA, which primarily includes management for the UMNWSR, is addressed in the RMP/EIS.